

Applicants : Adrian Gilbert et al.
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- A) A specific percent composition of microcrystalline cellulose by weight, such as 50% as recited in claim 2;
- B) Microcrystalline cellulose with a distinct moisture content such as 5% as recited by claim 6;
- C) A specific disintegrant such as starch as recited in claim 9 (If starch is elected as the disintegrant, then applicant is further required to elect a moisture content of said starch, such as 12% as recited by claim 12);
- D) A specific lubricant, such as magnesium stearate as recited by claim 16;
- E) A specific enteric coating, such as methacrylic acid copolymer as recited in claim 19;
- F) A specific film coating under the enteric coating, such as PVA as recited in claim 22;
- G) A specific solid form such as a tablet as recited in claim 24;
- H) A specific carrier suitable for application to the mucosal linings of a subject, such as chitosan as recited in claim 33; or
- I) A specific anti-microbial preservative, such as methyl paraben as recited in claim 35.

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In reply, applicants elect with traverse species G, directed to a pharmaceutical composition comprising Copolymer 1 in a specific solid form such as a tablet as recited in claim 24.

Applicants point out that under M.P.E.P. §803, the Examiner must examine the application on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden. Applicants contend that there would not be a serious burden on the Examiner if election were not required. A search of prior art for a pharmaceutical composition comprising Copolymer 1 and a specific percentage by weight of microcrystalline cellulose of any moisture content (Group A) would also uncover prior art concerning a pharmaceutical composition comprising Copolymer 1 and microcrystalline cellulose having a distinct moisture content such as 5% (Group B). Applicants point out that all claims recite a pharmaceutical composition comprising Copolymer 1 and microcrystalline cellulose. Thus, a search (for a pharmaceutical composition comprising Copolymer 1 and a specific percentage by weight of microcrystalline cellulose (Group A)) would also reveal pharmaceutical compositions comprising Copolymer 1 and microcrystalline cellulose, further supplemented with additional excipients such as a specific disintegrant, such as starch (claim 9) having a specific moisture content such as 12% as recited by claim 12 (Group C); a specific lubricant, such as magnesium stearate as recited by claim 16 (Group D); a specific enteric coating, such as methacrylic acid copolymer as recited in claim 19 (Group E); a specific film coating under the enteric coating, such as PVA as recited in claim 22 (Group F); a specific solid form, such as a tablet as recited in claim 24 (Group G); specific carrier

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suitable for application to the mucosal linings of a subject, such as chitosan as recited in claim 33 (Group H); or a specific anti-microbial preservative, such as methyl paraben as recited in claim 35 (Group I). Since the search and examination of the application can be made without serious burden, applicants respectfully request that the Examiner withdraw the election requirement.

Notwithstanding the foregoing, should the examination of the subject application begin with the elected species and the elected species be found allowable, applicants respectfully request examination of the generic claims pursuant to 37 C.F.R. § 1.146 and M.P.E.P. § 809.02, et seq.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Response. However, if any fee is deemed necessary, authorization

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is hereby given to charge the amount of any such fee to Deposit
Account No. 03-3125.

Respectfully submitted,



I hereby certify that this
correspondence is being deposited
this date with the U.S. Postal
Service with sufficient postage as
first class mail in an envelope
addressed to: Assistant
Commissioner for Patents,
Washington, D.C. 20231.

 9/27/02
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